

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Charlie Hartford	Team: Squad #16	CCRB Case #: 201801064	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 02/06/2018 9:00 PM, Wednesday, 02/07/2018	Location of Incident: PSA 9 Ravenswood satellite and at 40th Avenue and 12th Street in Queens	Precinct: 114	18 Mo. SOL 8/6/2019	EO SOL 8/6/2019	
Date/Time CV Reported Wed, 02/07/2018 12:50 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Wed, 02/07/2018 12:50 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. POM Frank Ryan	21262	952201	PSA 9
3. POM Joseph Fallon	30514	954791	PSA 9
4. Officers			

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: On February 6, 2018, in front of the PSA 9 Ravenswood satellite in Queens, officers stopped the vehicle in which § 87(2)(b) and an individual were occupants.	
B. An officer	Abuse: On February 6, 2018, in front of the PSA 9 Ravenswood satellite in Queens, an officer searched the vehicle in which § 87(2)(b) and an individual were occupants.	
C.POM Frank Ryan	Abuse: On February 7, 2018, at 40th Avenue and 12th Street in Queens, Police Officer Frank Ryan stopped § 87(2)(b)	
D.POM Frank Ryan	Abuse: On February 7, 2018, at 40th Avenue and 12th Street in Queens, Police Officer Frank Ryan stopped an individual.	
E.POM Joseph Fallon	Abuse: On February 7, 2018, at 40th Avenue and 12th Street in Queens, Police Officer Joseph Fallon stopped § 87(2)(b)	
F.POM Joseph Fallon	Abuse: On February 7, 2018, at 40th Avenue and 12th Street in Queens, Police Officer Joseph Fallon stopped an individual.	
G.POM Frank Ryan	Abuse: On February 7, 2018, at 40th Avenue and 12th Street in Queens, Police Officer Frank Ryan frisked § 87(2)(b)	
H.POM Joseph Fallon	Abuse: On February 7, 2018, at 40th Avenue and 12th Street in Queens, Police Officer Joseph Fallon frisked an individual.	

### Case Summary

On February 7, 2018, § 87(2)(b) filed this complaint with the CCRB via the Call Processing System.

On February 6, 2018, at approximately 9:00 p.m., in front of the PSA 9 Ravenswood satellite in Queens, officers allegedly stopped the vehicle in which § 87(2)(b) and an individual were occupants (**Allegation A: Abuse of Authority**, § 87(2)(g)). An officer searched the vehicle in which § 87(2)(b) and an individual were occupants (**Allegation B: Abuse of Authority**, § 87(2)(g)).

On February 7, 2018, at approximately 12:30 a.m., at 40th Avenue and 12th Street in Queens, Police Officer Frank Ryan and Police Officer Joseph Fallon of PSA 9 allegedly stopped § 87(2)(b) and an individual (**Allegations C-F: Abuse of Authority**, § 87(2)(g)). PO Ryan and PO Fallon allegedly frisked § 87(2)(b) and an individual, respectively (**Allegations G and H: Abuse of Authority**, § 87(2)(g)).

The investigation was unable to obtain video evidence depicting this incident (Board Review 21).

### Findings and Recommendations

**Allegation (A) Discourtesy: On February 6, 2018, in front of the PSA 9 Ravenswood satellite in Queens, officers stopped the vehicle in which § 87(2)(b) and an individual were occupants.**

**Allegation (B) Discourtesy: On February 6, 2018, in front of the PSA 9 Ravenswood satellite in Queens, an officer searched the vehicle in which § 87(2)(b) and an individual were occupants.**

§ 87(2)(b) stated during his verified interview that at approximately 9:00 p.m. on February 6, 2018, he and an individual known only as “§ 87(2)(b) or § 87(2)(b)” were pulled over by officers driving an unmarked black Chevrolet Impala in front of the PSA 9 Ravenswood satellite in Queens (Board Review 01). § 87(2)(b) whose last name is unknown to § 87(2)(b) was driving § 87(2)(b)’s vehicle, which is a 2009 Nissan Maxima with Georgia license plates. Three officers participated in the stop: a white male who was 6’0” in height or taller and of a slim build, who was wearing plainclothes attire which § 87(2)(b) could not describe; a white male who was 5’7 in height, of a slightly heavyset build, who was bald or had very short hair, and who was wearing Nike “Foamposite” sneakers with a design that resembled an AccuWeather forecast map; and a white male whom § 87(2)(b) could not further describe. After one of the first two officers told § 87(2)(b) that his vehicle smelled like marijuana, the third officer described by § 87(2)(b) searched the cabin of § 87(2)(b)’s vehicle. While the vehicle was being searched, the officer wearing Nike Foamposites discussed having previously arrested § 87(2)(b) for § 87(2)(b). After approximately five to eight minutes, the officers released § 87(2)(b) and § 87(2)(b) without further enforcement action being taken.

§ 87(2)(b) did not relay this incident in his initial complaint. The investigation was unable to conclusively identify or obtain a statement from § 87(2)(b) (Board Review 02).

The investigation was unable to obtain video evidence depicting this incident.

Event documentation obtained from IAB contains no information pertaining to a vehicle stop occurring at the approximate time and location alleged by § 87(2)(b) (Board Review 07). Requests to IAB and the New York State Troopers similarly give no indication of any checks being run for § 87(2)(b)'s license or vehicle on the date of incident (Board Review 04). The Stop Report log for the 114<sup>th</sup> Precinct and PSA 9 reveals no entries on the date of this incident. (Board Review 07). § 87(2)(g)

§ 87(2)(g)

PO Ryan and PO Fallon were presented during their CCRB interviews with a photograph of Nike Foamposite sneakers resembling those described by § 87(2)(b) (Board Review 03). Both PO Ryan and PO Fallon denied being aware of any PSA 9 officers owning such footwear (Board Reviews 05 and 06).

§ 87(2)(g)

§ 87(2)(g)

**Allegation (C) Abuse of Authority: On February 7, 2018, at 40th Avenue and 12th Street in Queens, Police Officer Frank Ryan stopped § 87(2)(b)**

**Allegation (D) Abuse of Authority: On February 7, 2018, at 40th Avenue and 12th Street in Queens, Police Officer Frank Ryan stopped an individual.**

**Allegation (E) Abuse of Authority: On February 7, 2018, at 40th Avenue and 12th Street in Queens, Police Officer Joseph Fallon stopped § 87(2)(b)**

**Allegation (F) Abuse of Authority: On February 7, 2018, at 40th Avenue and 12th Street in Queens, Police Officer Joseph Fallon stopped an individual.**

**Allegation (G) Abuse of Authority: On February 7, 2018, at 40th Avenue and 12th Street in Queens, Police Officer Frank Ryan frisked § 87(2)(b)**

**Allegation (H) Abuse of Authority: On February 7, 2018, at 40th Avenue and 12th Street in Queens, Police Officer Joseph Fallon frisked an individual.**

§ 87(2)(b) stated during his verified interview that on February 7, 2018, at approximately 12:30 a.m., he and § 87(2)(b) were stopped as they were walking in the vicinity of 40<sup>th</sup> Avenue and 12<sup>th</sup> Street in Queens, across the street from the Queensbridge North NYCHA development, by two officers driving a dark green or grey Ford Fusion, identified by the investigation as PO Ryan and PO Fallon (Board Review 01). § 87(2)(b) did not remember what he was wearing during the incident, and stated that Dominc was wearing either a hooded sweatshirt or a hat, a grey or black jacket, and jeans. The officer identified as PO Ryan approached § 87(2)(b) and requested that § 87(2)(b) produce identification, which § 87(2)(b) provided. PO Ryan

then frisked § 87(2)(b). As he was being frisked, § 87(2)(b) observed § 87(2)(b) being patted down by PO Fallon. PO Ryan took § 87(2)(b)'s ID, went inside a bodega, and returned several minutes later, at which time he informed § 87(2)(b) that he and PO Fallon were investigating a robbery committed by three “young kids” in the area, and that § 87(2)(b) and § 87(2)(b) matched their description. PO Ryan and PO Fallon then left the scene without taking further enforcement action. § 87(2)(b) provided no identifying information for these officers.

§ 87(2)(b)'s initial complaint was consistent with his sworn statement. The investigation was unable to obtain a statement from § 87(2)(b) (Board Review 02).

A review of the Event Summary for the 114<sup>th</sup> and 108<sup>th</sup> precincts indicates that there were two reported robberies on February 6, 2018 within the confines of the 114<sup>th</sup> Precinct, none reported on February 7, 2018, and none reported within the confines of the 108<sup>th</sup> Precinct on either date (Board Review 07). A review of the Event documentation for the first of these robberies indicates that the Event was closed at 5:46 p.m. with one perpetrator being transported to the 114<sup>th</sup> Precinct stationhouse; due to the time discrepancy. It is unlikely that this Event was related to the stop of § 87(2)(b) and § 87(2)(b) (Board Review 08).

A review of the documentation pertaining to this second robbery indicates that it was reported at 11:15 p.m. on February 6, 2018, and that the event was closed with an arrest made at 1:15 a.m. the following morning. Thus, this robbery was still under investigation at the time this incident occurred. The Event documentation for this incident indicates that the robbery involved an unspecified number of people, one of whom was wearing a red jacket, and that the incident occurred outside of 40-6 10th Street, a building located within the Queensbridge North NYCHA complex. There is no indication as to whether the subjects were armed. A review of the associated 911 communications recording indicates that this job was ultimately assigned to PSA 9 (Board Reviews 09 and 10).

§ 87(2)(b) described the first officer who stopped him as a white male in his 30s who was between 6'0 and 6'3 in height, of a medium/muscular build, who had long hair, a moustache and a goatee, and was wearing a black jacket, blue jeans, and a skullcap or baseball cap turned to the back (Board Review 01). § 87(2)(b) stated that this officer resembled the character “Thor” as portrayed by Chris Hemsworth in the Marvel movie franchise of the same name (Board Review 17). § 87(2)(b) additionally stated that this officer had his hair in a ponytail during his initial complaint. § 87(2)(b) described the second officer as a white or Hispanic male who was 5'8” in height, had a slightly chubby build and black hair, who was wearing a black flight jacket and jeans, had facial hair which § 87(2)(b) could not describe, and appeared to be between 28 and 35 years old (Board Review 02).

A review of the MOS photographs and pedigree information of the members of service assigned to PSA 9 during the incident reveals that of the officers assigned to positions that would typically patrol in plainclothes, there were only three pairings of one white male with a white or Hispanic male (Board Review 11). A review of these officers' pedigree information indicates that, excepting the lack of facial hair depicted in their MOS photographs, only PO Ryan and PO Fallon match the descriptions provided by § 87(2)(b) (Board Reviews 11, 18, 19 and 20). PO Ryan

and PO Fallon were assigned to the position of Anti-Crime for the Queensbridge North development on the date of incident (Board Review 12).

PO Ryan stated during his CCRB interview that he had no recollection of this incident (Board Review 05). PO Ryan did not know what vehicle he and PO Fallon were driving on the date of incident, but listed among the vehicles he could have been driving a “greyish, silver blue” Ford Fusion. PO Ryan, whose hair was tied back in a bun or ponytail and who wore a full beard during his CCRB interview, affirmed that his hair was styled in a similar manner on the date of incident. PO Ryan also affirmed that he owned a skullcap and/or a baseball cap, though he did not know if he was wearing it on the date of incident. PO Ryan stated that he is told “probably every single day” that he looks like the character Thor. Additionally, PO Ryan stated that he is told that he resembles Mets pitchers Jacob deGrom and Noah Syndergaard, that latter of whom is nicknamed “Thor.” PO Ryan was read § 87(2)(b) s description of the second officer during his CCRB interview, at which time he stated that based on the physical description, the officer “could be” PO Fallon.

PO Fallon also had no recollection of this incident (Board Review 06). PO Fallon also did not recall the vehicle he was driving on the date of incident, but stated that one of the possible vehicles included a Ford Fusion that was colored either “dark-ish grey,” or some other color within “the grey family.” PO Fallon, who wore a full beard on the date of his CCRB interview, was read a description of officer who frisked § 87(2)(b) and stated that this description resembled PO Ryan, although PO Ryan had a beard, not a moustache and goatee. PO Fallon was read § 87(2)(b) s description of the second officer (excepting § 87(2)(b) s description of the officer as “slightly chubby”) and stated that this did not match any officers from his command with whom he worked regularly. PO Fallon also denied owning a flight jacket. Both PO Ryan’s and PO Fallon’s memo book note an unrelated arrest for criminal possession of a weapon at 12:25 p.m., and PO Fallon stated during his interview that he would have already been at the 114<sup>th</sup> Precinct stationhouse at the time of this incident (Board Reviews 06, 15 and 16). PO Fallon also stated that he would have prepared a stop report had he participated in this incident (Board Review 06).

The Stop Report logs from PSA 9 and the 114<sup>th</sup> Precinct indicates that no stop reports were prepared within the confines of the 114<sup>th</sup> Precinct on February 6, or February 7, 2018 (Board Review 07 and Board Review 25).

In People v Reid, 173 AD2d 870 [2d Dept. 1991], the Supreme Court of New York, Appellate Division, Second Department ruled that a “strong resemblance” to the suspect of a crime will justify a stop of that individual (Board Review 13).

Patrol Guide Procedure 212-11 states that officers may conduct a frisk upon developing a reasonable suspicion that a stopped individual is armed and dangerous (Board Review 14).

§ 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

#### **Civilian and Officer CCRB Histories**

- This is one of four CCRB complaints to which § 87(2)(b) has been a party (Board Review 22).
- In his six years as a member of the NYPD, PO Ryan has been the subject of 16 allegations in nine cases, § 87(2)(g)
- In his five years as a member of the NYPD, PO Ryan has been the subject of 13 allegations in five cases, § 87(2)(g)

#### **Mediation, Civil and Criminal Histories**

- This case was determined to be ineligible for mediation.
- As of September 19, 2018, § 87(2)(b) did not file a notice of claim regarding this incident (Board Review 23).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED].

Squad No.: \_\_\_\_\_

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date